

HOUSE BILL NO. 259

INTRODUCED BY M. REINHART, FUREY, MCALPIN, WARD

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING TERMS; RESTRICTING THE USE AND LOCATION OF GRAY WATER REUSE SYSTEMS; ~~AND DIRECTING THE BOARD OF ENVIRONMENTAL REVIEW TO CREATE RULES REGULATING RESIDENTIAL GRAY WATER REUSE SYSTEMS; AMENDING SECTION 75-5-305, MCA; AND PROVIDING AN APPLICABILITY CLAUSE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in ~~[sections 1 through 2, AND 4]~~ THIS PART, unless the context indicates otherwise, the following definitions apply:

~~(1) "Board" means the board of environmental review provided for in 2-15-3502.~~

~~—— (2) "Department" means the department of environmental quality provided for in 2-15-3501.~~

~~(3)~~ (1) "Gray water" means wastewater THAT IS collected separately from a sewage flow AND that does not contain industrial chemicals, hazardous wastes, or wastewater from toilets.

~~(4)~~ (2) "Gray water reuse system" means a plumbing system for a private, SINGLE-FAMILY residence that collects gray water.

NEW SECTION. Section 2. Residential gray water reuse -- restrictions. (1) Gray water may not be used to irrigate plants to be consumed by humans.

(2) Gray water reuse systems may not be located within a ~~floodway~~ FLOOD PLAIN, as defined in 76-5-103.

~~—— NEW SECTION. Section 3. Rulemaking authority.~~ (1) The board, in consultation with the department, shall adopt rules for permitting gray water reuse systems in private residential units.

~~—— (2) The rules must:~~

~~—— (a) limit gray water flow allowed by a permit, depending on lot size and other considerations, to a maximum of 400 gallons each day;~~

~~—— (b) address uses of gray water, including how and when gray water may be applied to the land; and~~

~~—— (c) include any other provisions that the board considers necessary to ensure that gray water reuse~~

1 ~~systems comply with laws and regulations and protect public health and the environment.~~

3 **SECTION 3. SECTION 75-5-305, MCA, IS AMENDED TO READ:**

4 **"75-5-305. Adoption of requirements for treatment of wastes -- variance procedure -- appeals. (1)**

5 The board may establish minimum requirements for the treatment of wastes. For cases in which the federal
6 government has adopted technology-based treatment requirements for a particular industry or activity in 40 CFR,
7 chapter I, subchapter N, the board shall adopt those requirements by reference. To the extent that the federal
8 government has not adopted minimum treatment requirements for a particular industry or activity, the board may
9 do so, through rulemaking, for parameters likely to affect beneficial uses, ensuring that the requirements are
10 cost-effective and economically, environmentally, and technologically feasible. Except for the technology-based
11 treatment requirements set forth in 40 CFR, chapter I, subchapter N, minimum treatment may not be required to
12 address the discharge of a parameter when the discharge is considered nonsignificant under rules adopted
13 pursuant to 75-5-301.

14 (2) (a) The board shall establish minimum requirements for the control and disposal of sewage from
15 private and public buildings, including standards and procedures for variances from the requirements.

16 (b) For gray water reuse systems in private, single-family residences, the board shall establish rules that:

17 (i) ALLOW THE DIVERSION OF GRAY WATER FROM WASTEWATER TREATMENT SYSTEMS AND limit the amount of
18 gray water flow allowed by permit;

19 (ii) address the uses of gray water, including when and how gray water may be applied to land; and

20 (iii) include any other provisions that the board considers necessary to ensure that gray water reuse
21 systems comply with laws and regulations and protect public health and the environment.

22 (3) An applicant for a variance from minimum requirements adopted by a local board of health pursuant
23 to 50-2-116(1)(i) may appeal the local board of health's final decision to the department by submitting a written
24 request for a hearing within 30 days after the decision. The written request must describe the activity for which
25 the variance is requested, include copies of all documents submitted to the local board of health in support of the
26 variance, and specify the reasons for the appeal of the local board of health's final decision.

27 (4) The department shall conduct a hearing on the request pursuant to Title 2, chapter 4, part 6. Within
28 30 days after the hearing, the department shall grant, conditionally grant, or deny the variance. The department
29 shall base its decision on the board's standards for a variance.

30 (5) A decision of the department pursuant to subsection (4) is appealable to district court under the

provisions of Title 2, chapter 4, part 7."

NEW SECTION. Section 4. Local gray water regulations. The requirements of ~~{sections 2 and 3}~~
75-5-305 AND [SECTION 2] are minimum requirements and do not restrict a local governing body from adopting
stricter or additional regulations for gray water reuse systems.

~~NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified
as an integral part of Title 75, and the provisions of Title 75 apply to [sections 1 through 4].~~

**NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. [SECTIONS 1, 2, AND 4] ARE INTENDED TO BE
CODIFIED AS AN INTEGRAL PART OF TITLE 75, CHAPTER 5, PART 3, AND THE PROVISIONS OF TITLE 75, CHAPTER 5, PART
3, APPLY TO [SECTIONS 1, 2, AND 4].**

**NEW SECTION. SECTION 6. APPLICABILITY. (1) [THIS ACT] APPLIES TO GRAY WATER SYSTEMS THAT ARE
INSTALLED AFTER [THE EFFECTIVE DATE OF THIS ACT].**

**(2) [THIS ACT] AND ANY RULES OR REQUIREMENTS ADOPTED AS A RESULT OF [THIS ACT] MAY NOT BE IMPOSED
ON A GRAY WATER SYSTEM THAT WAS INSTALLED ON OR BEFORE [THE EFFECTIVE DATE OF THIS ACT].**

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